REMARKS

Claims 1-28 are pending. Reconsideration and allowance of all pending claims are respectfully requested in light of the following remarks. It will be recognized that only those amendments necessary for placing all of the claims pending this application in condition for allowance have been made hereinabove. Therefore, Applicant respectfully requests that all of the claim amendments be entered.

Claim Objections

Claim 15 stands objected to because of certain informalities. In response, Applicant has corrected the informality by replacing "emptily" with "empty" and respectfully request that the objection be withdrawn.

Rejections under 35 U.S.C §101

Claims 1-28 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. In response, Applicant has amended the claims to overcome the rejection and therefore respectfully requests that the rejection be withdrawn.

Rejections under 35 U.S.C. §112, first paragraph

Claims 1-28 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In response, Applicant has amended the claims to remove the phrase "selectively executing" from the claims and therefore respectfully requests that the subject rejection be withdrawn.

Rejections under 35 U.S.C. §112, second paragraph

Claims 1-28 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. In response, Applicant has amended the claims to remove the phrase "selectively executing" from the claims. Additionally, Applicant has amended claim 3 to remove the seemingly contradictory limitations previously contained therein. In view of the foregoing, Applicant respectfully requests that the subject rejection be withdrawn.

Rejections under 35 U.S.C § 103(a)

Claims 1-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,966,547 to Hagan et al. ("Hagan") in view of Parlante (Linked List Basics). Applicant respectfully

traverses the subject rejection on the grounds that the cited references are defective in establishing a prima facie case of obviousness with respect to the pending claims.

As the PTO recognizes in MPEP § 2142:

> *The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.*

It is submitted that, in the present case, the Examiner has not factually supported a prima facie case of obviousness for the following reasons.

The Hagan and Parlante references cannot be applied to reject independent claims 1, 11, and 15 under 35 U.S.C. § 103 because, even when combined, the references do not teach the claimed subject matter. In particular, the cited references fail to teach or suggest at least the following element as recited in independent claim 1, as amended:

> *executing an add to end function for adding a new element to the queue even when the queue is in a locked state immediately prior to execution of the add to end function in which a queue head pointer is null and a queue tail pointer does not point to the queue head pointer.*

The Examiner has conceded that Hagan fails to teach this element, for which Parlante is cited. In the "Response to Arguments" section of the final Office action, beginning on page 4, the Examiner concedes that "Applicant correctly points out that Parlante does not explicitly teach how to handle this boundary case [i.e., an empty list]." The Examiner goes on to state at page 5 that "adding a node to [sic] end of a queue when the queue is in a locked state entails adding a node on to an empty queue." Applicant respectfully traverses the Examiner's position in this regard and submits that this is not an accurate characterization of Applicant's invention as claimed. In particular, claim 1 has been amended to clarify execution of the "add to end" function "even when the queue is in a locked state immediately prior to execution of the add to end function in which the queue head pointer is null and a queue tail pointer does not point to the queue head pointer." In other words, Applicant's claimed invention covers the situation in which the "add to end" function is executed while the queue is locked because another function is accessing the queue to add/remove an element therefrom, as evidenced by the head pointer being null and the tail pointer not pointing to the head pointer (i.e., the queue is not empty). This is clearly not described in Parlante.

Thus, for this mutually exclusive reason, the Examiner's burden of factually supporting a *prima facie* case of obviousness with respect to independent claim 1 has clearly not been met, and the rejection under U.S.C. §103 should be withdrawn. Independent claims 11 and 15 include limitations similar to

those of claim 1 and are therefore also deemed to be in condition for allowance for at least the same reasons as claim 1. Claims 2-10, 12-14, and 16-28 depend from and further limit independent claims 1, 11, and 15, and are therefore also deemed to be in condition for allowance for at least that reason.

Additionally, Applicants submit that dependent claims 3 and 20, as amended, are independently allowable in view of the fact that the cited combination fails to teach the limitations recited therein.

Conclusion

It is clear from the foregoing that all of the pending claims are in condition for allowance. An early formal notice to that effect is therefore respectfully requested.

Respectfully submitted,

Brandi W. Sarfatis
Registration No. 37,713

Dated: 4/12/07

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: 214/651-5896
Facsimile: 214/200-0948
Client Matter No.: 26530.91/IDR-666

Certificate of Transmission

I hereby certify that this correspondence is being transmitted via EFS-Web to the United States Patent and Trademark Office, on the date indicated below

April 12, 2007

Ellen Lovelace

D-1516322_1.DOC